



TOWN OF FREEPORT, MAINE

Planning Department

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TO: FREEPORT PROJECT REVIEW BOARD
FROM: CAROLINE PELLETIER, TOWN PLANNER
RE: STAFF REPORT
DATE: WEDNESDAY, FEBRUARY 17, 2021

<u>Two Stonewood, LLC – Subdivision Amendment – PUBLIC HEARING</u>	
Property Location:	Tax Assessor Map 23, Lots 70B-3, 70B-4, 70B-5, and 70B- 6.
Zoning Information:	Commercial I
Review Type(s):	Subdivision - Minor
Waivers Requested:	None

Background: The applicant is seeking approval to amend the previously approved subdivision plan for the Stonewood Campus Subdivision on Lighthouse Road. The applicant proposes the consolidation of four of the existing lots (Lots 3, 4, 5, and 6) into one large lot. The length of the road would also be shortened; an extension of the road length is no longer proposed.

Although the updated net residential acreage would allow for additional lots; no additional lots are proposed at this time. Even though no additional lots are being created, since this is an approved subdivision, any changes to the plan require review and approval from the Project Review Board (Article 9 Freeport Subdivision Ordinance). The general layout of the development remains unchanged and since the parcel is located in the Commercial I District, open space is not required.

The applicant has been working closely with the Freeport Conservation Trust regarding the relocation of the trail easement and the associated parking. Additional information from the Freeport Conservation Trust (FCT) is expected prior to the meeting. The draft updates to the Association documents and proposed easements have been included in the submission and do reflect the changes in lot configurations and the FCT easement areas.

There is an existing Site Location of Development Permit from the Maine Department of Environmental Protection (DEP) for the project. The lot merge and other associated modifications to the plan do not require any amendments or additional permitting from the DEP.

A Trip Generation Calculation (dated 1/26/21) has been included in the submission and notes that the development will not require a Traffic Movement Permit from the Maine Department of Transportation. If at such time the lots are proposed to be built out, and if certain thresholds are met, a Traffic Movement Permit could possibly be required and the applicant would need to obtain applicable permits at that time.

There is no proposed use for the new merged lot at this time. If/when it was to be developed, depending on the use, Site Plan Review may be required for the lot and it would need to comply with any such standards in place at that time.

The previously approved Findings of Fact have been updated (as noted below) and the proposed conditions of approval have also been updated.

Proposed Findings of Fact:

11.1 Pollution

A. State Standard

Pollution. The proposed subdivision will not result in undue water or air pollution. In making the determination, the Board shall at least consider:

1. The elevation of the land above sea level and its relation to the flood plains;
2. The nature of soils and subsoils and their ability to adequately support waste disposal;
3. The slope of the land and its effect on effluents;
4. The availability of streams for disposal of effluents; and
5. The applicable state and local health and water resources rules and regulations.

The entire parcel is in Flood Zone C – Area of Minimal Flooding based upon the most current FEMA Flood Insurance Rate Maps. The ~~building-lots~~ will be connected to the public water and public sewer system. A stream has been identified on the plan. ~~and Department of Environmental~~ Setbacks will be maintained with the exception of the trail for which an NRPA Permit ~~will need to be~~ has been obtained. Based upon this information, the Board finds that this standard has been met.

11.2 Sufficient Water

A. State Standard

Sufficient water. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision.

The development will be connected to the public water system. A capacity letter from MaineWater (dated 9/26/18) ~~has been included in the submission~~ was previously submitted. Based upon this information, the Board finds that this standard has been met.

11.3 Impact on Existing Water Supplies

A. State Standard

Municipal water supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used.

The development will be connected to the public water system. A capacity letter from MaineWater (dated 9/26/18) ~~has been included in the submission~~ was previously submitted. Based upon this information, the Board finds that this standard has been met.

11.4 Soil Erosion.

A. State Standard

Erosion. The proposed subdivision will not cause unreasonable sedimentation or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.

The applicant ~~did submit~~previously submitted stormwater management and erosion control plans. The Town Engineer ~~has previously~~ reviewed and approved the plans for the stormwater improvements associated with the road. His comments ~~are included in a~~were previously issued in a memo dated November 20, 2018. It is his recommendation that the applicant enter into a Maintenance Agreement for a Stormwater Management System with the Town of Freeport, and to be recorded in the Cumberland County Registry of Deeds. This has been added as a proposed condition of approval. In addition, the parcel is subject to an existing Department of Environmental Protection Site Location of Development Permit ~~and an amendment will be required; this has been added as a condition of approval and the submission has been made.~~ The ~~amendment will be~~permit was issued for the potential buildout of the entire development; treatment ~~will be~~has been comprehensively designed for a pre-determined amount of impervious area on each lot. Based upon this information, the Board finds that this standard has been met.

11.5 Traffic Conditions

A. State Standards

Traffic. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.

The existing road will be improved ~~and but will no longer need to be~~ extended. Due to the number of parcels with access off of the road, a road name is required. The road name of "Lighthouse Road" has been reviewed and approved by the Town of Freeport's E-911 Addressing Officer. ~~The new length of road will be subject to a Pavement Maintenance Impact Fee; this has been added as a condition of approval.~~

A draft road maintenance agreement has been included in the submission. Submitting final legal documents to the Town of Freeport for review and approval has been added as a condition of approval.

~~In addition, the applicant has been working with the Maine Department of Transportation regarding a Traffic Movement Permit for the project. Based upon information submitted by the applicant, this subdivision is not triggering the need for the a Traffic Movement Permit from the Maine Department of Transportation permit, however the applicant is planning ahead as it is anticipated that the complete buildout would trigger the need for this.~~

Based upon this information, the Board finds that this standard has been met.

11.6 Sewage Disposal

A. State Standards

Sewage disposal. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.

The parcels will be connected to the public sewer system. A capacity letter from the Freeport Sewer District (dated 10/09/18) ~~has been~~was included~~previously included~~ with the submission. Based upon this information, the Board finds that this standard has been met.

11.7 Solid Waste

A. State Standard

Municipal solid waste disposal. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized.

In accordance with the Freeport Solid Waste Disposal Ordinance, each lot owner will need to either contract with a private waste hauler or bring household waste to the landfill. Based upon this information, the Board finds that this standard has been met.

11.8 Impact on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas, or Public Access to the Shoreline

A. State Standard

Aesthetic, cultural, and natural values. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, rare and irreplaceable natural areas, or any public rights for physical or visual access to the shoreline.

A vernal pool study was conducted in April 2018 by Sebago Technics; no significant vernal pools have been identified on the site (see memorandum dated 07/05/18). The Maine Historic Preservation Commission did sign-off on the project (dated 09/19/18) and noted that no historic resources will be affected by the project. The applicant also obtained a letter from the Department of Inland Fisheries and Wildlife (dated 10/03/18) in there they state that there is no known critical habitat on the property. A letter from the Maine Department of Agriculture, Conservation and Forestry regarding the potential of any natural resources on the site ~~has been included in the submission~~ was previously submitted (dated 10/03/18) and ~~notes-noted~~ that there are no rare botanical features within the project area. Based upon this information, the Board finds that this standard has been met.

11.9 Conformance with Zoning Ordinance and Other Land Use Ordinances.

A. State Standard

Conformity with local ordinances and plans. The proposed subdivision conforms with a duly adopted subdivision ordinance, zoning ordinance, floodplain ordinance, the comprehensive plan, and other ordinances included in the municipal code as appropriate. In making this determination, the municipal reviewing authority may interpret these ordinances and plans.

The parcel is located in the Commercial I (C-I) Zoning District. No open space is required. The plan complies with the space standards and open space requirements of the Freeport Subdivision Ordinance and the Freeport Zoning Ordinance. Based upon this information, the Board finds that this standard has been met.

11.10 Financial and Technical Capacity

A. State Standard

Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section.

The recording plat and submission was prepared by Sebago Technics. The recording plan was stamped by a land surveyor. A letter from Gorham Savings Bank (dated 10/31/18) noting

financial capacity to complete the project was included in the submission. Since the length of the road will not be extended, the infrastructure costs have decreased significantly. Prior to any work beginning on the project, the applicant will need to establish a performance guarantee to cover the cost of all site work. Based upon this information, the Board finds that this standard has been met.

11.11 Impact on Water Quality or Shoreline

A. State Standard

Surface waters; outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake or within two hundred and fifty (250) feet of any wetland, great pond, or river as defined in Title 38, Chapter 3, Subchapter I, Article 2-B¹, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

This parcel is not located within the watershed of a great pond or lake, nor is it within the Shoreland Zone. The locations of wetlands have been shown on the plan. NRPA Permits for wetland filling and proximity of work to the stream will be required. The applicant did receive approval from the DEP for a stream setback reduction to allow a portion of the setback on Lot 4 3 to be reduced from 100 feet down to 75 feet; this is reflected on the plan. An amendment to the existing Site Location of Development Permit from the Maine Department of Environmental Protection ~~is required and the submission has been made~~ was previously issued. Based upon this information, the Board finds that this standard has been met.

11.12 Impact on Ground Water Quality or Quantity

A. State Standard

Ground water. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

The parcels will be connected to the public water system and public sewer system. Based upon this information, the Board finds that this standard has been met.

11.13 Floodplain Management

A. State Standard

Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Flood way Maps, Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.

All of the land is in "Zone C" — areas of minimal flooding — on the FEMA Flood Insurance Rate Maps (FIRM). Based upon this information, the Board finds that this standard has been met.

11.14 Identification of Freshwater Wetlands

A. State Standard

Freshwater wetlands. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these

wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.

The locations of wetlands have been shown on the plan. Wetlands were delineated by Mike Jakubowski of Sebago Technics, Inc (see memorandum dated 7/5/18). An NRPA Permit from the DEP will be required for some filling of wetlands. Based upon this information, the Board finds that this standard has been met.

11.15 Rivers, Streams, and Brooks

A. State Standard

River, stream or brook. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, Section 480-B, Subsection 9.

The location of an un-named stream has been identified on the plan. An NRPA Permit from the DEP will be required for the proximity of some work to the stream. The applicant did receive approval from the DEP for a reduction in the setback to the stream to allow a portion of the setback on Lot 4-3 to be reduced from 100 feet down to 75 feet; this is reflected on the plan. Based upon this information, the Board finds that this standard has been met.

11.16 Storm Water Management

A. State Standard

Storm water. The proposed subdivision will provide for adequate storm water management.

The applicant did submit stormwater management and erosion control plans. The Town Engineer has reviewed and approved the plans for the stormwater improvements associated with the road. His comments ~~are included~~ are in a memo dated November 20, 2018. It is his recommendation that the applicant enter into a Maintenance Agreement for a Stormwater Management System with the Town of Freeport, and to be recorded in the Cumberland County Registry of Deeds. This has been added as a proposed condition of approval. In addition, the parcel is subject to an existing Department of Environmental Protection Site Location of Development Permit and an amendment ~~will be required~~ was previously obtained for the ~~development; this has been added as a condition of approval and the submission has been made.~~ The amendment ~~will be~~ was for the potential buildout of the entire development; treatment ~~will has been~~ be comprehensively designed for a pre-determined amount of impervious area on each lot. Based upon this information, the Board finds that this standard has been met.

11.17 Spaghetti Lots

A. State Standard

Spaghetti lots prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond, or coastal wetland as these features are defined in Title 38, Section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than five (5) to one (1).

No spaghetti lots are proposed with this development. Based upon this information, the Board finds that this standard has been met.

11.18 Phosphorus Impacts on Great Ponds

A. State Standard

Lake phosphorus concentration. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond’s phosphorus concentration during the construction phase and life of the proposed subdivision.

The development is not within the watershed of a great pond. Based upon this information, the Board finds that this standard has been met.

11.19 Impacts on Adjoining Municipalities

A. State Standard

Impact on adjoining municipality. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

The development is entirely within the boundaries of the Town of Freeport and does not cross any municipal boundaries. Based upon this information, the Board finds that this standard has been met.

Conclusion: Based on these facts the Board finds that this project meets the criteria and standards of the Subdivision Ordinance.

Proposed Motion: Be it ordered that the Freeport Project Review Board approve the printed Findings of Fact and subdivision plan for Two Stonewood, LLC, for a subdivision amendment on Lighthouse Road, to merge previously approved lots 3, 4,5 & 6 into one lot, with minor associated alterations to the plan, subdivision recording plan dated TBD, to be built substantially as proposed, finding that it meets the standards of the Freeport Subdivision Ordinance, with the following Conditions of Approval:

- 1) This approval incorporates by reference all supporting plans that amend the previously approved plans submitted by the applicant and his/her representatives at Project Review Board meetings and hearings on the subject application to the extent that they are not in conflict with other stated conditions.
- 2) Prior to any site work, including but not limited to clearing of the site, the applicant do the following:
 - A. Enter into a Maintenance Agreement for a Stormwater Management System with the Town of Freeport, to be recorded in the Cumberland County Registry of Deeds, with yearly stormwater reporting to the Town of Freeport being required.
 - ~~B. Pay a Pavement Maintenance Impact Fee to the Town of Freeport, to be based upon length of the new section of the road and the current impact fee effective at such time that the fee is paid. Applicants for building permits will also be required to pay a Pavement Maintenance Impact Fee at the time a building permit is applied for and based upon the size of the structure and the current impact fee effective at such time.~~
 - ~~C.~~B. Establish a performance guarantee in the amount to cover the cost of all site work associated with the project, in an amount of ~~\$258,362.00~~TBD, in a form acceptable to the Town Attorney. The performance guarantee, in accordance with Article 12.9 of the Freeport Subdivision Ordinance, shall cover the cost of all site work, including the road, erosion control, stormwater management, landscaping and demarcation

of property lines, etc, along with the performance guarantee, a non-refundable administrative fee of 2% of the performance guarantee, in the amount of ~~\$5,167.00~~TBD, be paid.

~~D.C.~~ Establish an inspection account, in the amount of ~~\$3,000~~TBD, for inspection of the site improvements by the Town Engineer.

~~E.D.~~ The developer have a pre-construction meeting with the Town Engineer.

~~F.E.~~ The applicant file for a Maine Construction General Permit with the Maine Department of Environmental Protection.

~~G.~~ ~~The applicant obtain approval from the Maine Department of Environmental Protection for an amendment to the existing Site Location of Development Permit.~~

~~H.F.~~ Final legal documents be submitted to the Town for review and approval including association documents, road maintenance provisions and the draft easement language for public access to and over the proposed trail connection.

- 3) The final signed mylar of the recording plan shall be recorded in the Cumberland County Registry of Deeds within ninety (90) days of the date upon which the plan is signed otherwise the plan shall become null and void.
- 4) Prior to the sale of any lot, the applicant shall provide the Town Planner with a letter from a Registered Land Surveyor, stating that all monumentation shown on the plan has been installed.

Dog House Energy Services – Site Plan Renewal	
Property Location:	Tax Assessor Map 18, Lot 59-1
Zoning Information:	Medium Density B
Review Type(s):	Site Plan Renewal
Waivers Requested:	None

Background: The previously approved site plan included a new two-story 2,800 s.f. building to be use as office and warehouse/storage for their business. The project is in the Medium Density B (MD-B) District and it is important to note that in addition to the standards for Site Plan Review (Section 602 of the Freeport Zoning Ordinance), standards in Section 406.C and 406.G (Freeport Zoning Ordinance – Medium Density Districts) are still also applicable as they were with the original approval. In regards to the use, there are some size limitations for warehouse and storage facility, however based on the proposal there will be 1,528 sf of office/common area and 1,344 sf of warehouse and storage which will be for the business and accessory to the use. No changes to the previously approved building or site plan are proposed.

Process: Section 602.C.1.r of the Freeport Zoning Ordinance allows the Board to grant an extension of past approvals, if the request is made prior to the date of the approval expiration. The last approval is set to expire this month, and the project has not yet begun construction. The same conditions of approval and previously approved Findings of Fact would be applicable and should be referenced in any action by the Board on the extension request.

Proposed Motion: Be it ordered that the Freeport Project Review grant an extension of the previously approved Site Plan approval for Dog House Energy Services on US Route One (Tax Assessor Map 18, Lot 59-1), for a new building and associated site improvements, to be substantially as proposed, site plan dated January 2019, revised through 2/14/19, finding that no municipal ordinances affecting the approvals have changed and therefore the application would still meets the standards of the Freeport Zoning Ordinance, with the following Conditions of Approval:

- 1) This approval incorporates by reference all supporting plans that amend the previously approved plans submitted by the applicant and his/her representatives at Project Review Board meetings and hearings on the subject application to the extent that they are not in conflict with other stated conditions.
- 2) Prior to any work on the building, the applicant obtain a building permit from the Freeport Codes Enforcement Officer.
- 3) Prior to any site work, or a building permit being applied for, the applicant do the following:
 - A. Plans be revised and reviewed and approved by the Town Engineer specifically addressing his comments included in a memo dated February 14, 2019.
 - B. Enter into a Maintenance Agreement for a Stormwater Management System with the Town of Freeport, to be recorded in the Cumberland County Registry of Deeds, with yearly stormwater reporting to the Town of Freeport being required.
 - C. The applicant obtain approval from the Maine Department of Environmental Protection for the NRPA Permit by Rule for the work in proximity to the stream.
 - D. Establish a performance guarantee in the amount to cover the cost of all site work associated with the project, to be reviewed and approved by the Town Engineer and in a form acceptable to the Town Attorney. The performance guarantee shall cover the cost of all site work, including the road, landscaping, erosion control, and stormwater management etc. Along with the performance guarantee, a non-refundable administrative fee of 2% of the performance guarantee, in the amount to be determined by the Town Engineer, be paid.
 - E. Establish an inspection account, in the amount of \$1,500, for inspection of the site improvements by the Town Engineer.
 - F. The developer have a pre-construction meeting with the Town Engineer.
 - G. At the time that a building permit is applied for, the applicant pay a Pavement Maintenance Impact fee to the Town of Freeport based upon the size of the proposed structures and the impact fees effective at such time (est.\$1,800.00) .
- 4) Prior to starting work on the proposed entrance, the applicant's contractor obtain a valid contractor's license from the Freeport Department of Public Works Department.